

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JEFF POFF,

Plaintiff,

v.

LIEUTENANT FISHER,

Defendant.

ORDER

22-cv-238-wmc

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On the eve of trial, *pro se* plaintiff Jeff Poff has filed a motion for emergency injunctive relief and sanctions. (Dkt. #129.) Specifically, he claims that he has been unable to review video of the use-of-force incident underlying this case since his transfer to Waupun Correctional Institution in late June. He also seeks sanctions for defense counsel's alleged failure to produce certain information from officer personnel files and security suite and alpha group meeting room video as directed by the court's September 29, 2023, order. (Dkt. #113.)

The court will grant the motion insofar as defense counsel must ensure that Poff is able to review the cell camera video of the underlying use-of-force incident in preparation for trial, but will not "sanction" anyone. As defense counsel explained in his response to the court's order, a diligent search did not uncover any relevant sanctions or discipline in the officers' personnel files or any relevant video footage of the security suite or the alpha group meeting room, nor any request from Poff that such video be preserved. (Dkt. #123.) Defense counsel cannot produce evidence that does not exist, nor does the court have any basis to find that this evidence was destroyed in bad faith, much less that defense counsel, the litigation coordinator, or anyone else played any role in its destruction.

ORDER

IT IS ORDERED that:

- 1) Plaintiff Jeff Poff's motion for emergency injunctive relief (dkt. #129) is GRANTED in part and DENIED in part.
- 2) Defense counsel is directed to ensure that Poff can review the cell camera video of the July 14, 2020, use-of-force incident underlying this case in preparation for trial.

Entered this 25th day of October, 2023.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge